



General Assembly

January Session, 2013

***Raised Bill No. 6697***

LCO No. 5491



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING THE FORFEITURE OF A MOTOR VEHICLE  
OPERATED WHILE CONSUMING OR UNDER THE INFLUENCE OF  
INTOXICATING LIQUOR OR DRUGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2013*) (a) Whenever any motor  
2       vehicle which may have been used in a violation of subsection (a) of  
3       section 14-227a of the general statutes or section 53a-56b, 53a-60d or  
4       53a-213 of the general statutes has been seized as a result of a lawful  
5       arrest for a violation of any of said sections and which the state seeks  
6       to have disposed of in accordance with the provisions of this section,  
7       the law enforcement agency arresting the person accused of violating  
8       any of said sections shall, not later than ten days after such seizure,  
9       cause to be left with the owner of, and with any person claiming of  
10      record a bona fide lien, lease or security interest in the vehicle so seized  
11      as of the date of seizure, or at such person's usual place of abode or  
12      business, a summons notifying the owner and any such other person  
13      claiming such lien, lease or security interest that the motor vehicle has  
14      been seized, that the owner or the owner's agent, permittee or lessee  
15      may secure release of the motor vehicle upon substitution of a bond or

16 other security as provided in section 3 of this act and that the owner or  
17 other person claiming such lien, lease or security interest shall appear  
18 before the court at a place and time named in such notice which shall  
19 be not less than ten, nor more than twenty, days after the service  
20 thereof. Such summons shall be signed by a clerk of the court and  
21 service shall be made by a local or state police officer or by registered  
22 or certified mail. The summons shall describe the motor vehicle with  
23 reasonable certainty and state when, where and why the motor vehicle  
24 was seized.

25 (b) The owner or any other person claiming such lien, lease or  
26 security interest in the motor vehicle who has received notice of its  
27 seizure pursuant to subsection (a) of this section or any other person  
28 claiming such lien, lease or security interest in the motor vehicle may  
29 appear at such hearing. The hearing shall be deemed a civil suit in  
30 equity. At such hearing the prosecuting authority shall have the  
31 burden of proving all material facts by clear and convincing evidence.  
32 No testimony offered or evidence produced by such owner or person  
33 claiming a lien, lease or security interest at such hearing and no  
34 evidence discovered as a result of or otherwise derived from such  
35 testimony or evidence may be used against such owner or person  
36 claiming a lien, lease or security interest in any proceeding, except that  
37 no such owner or person claiming a lien, lease or security interest shall  
38 be immune from prosecution for perjury or contempt committed while  
39 giving such testimony or producing such evidence. If, after such  
40 hearing, the court finds that the prosecuting authority has failed to  
41 meet its burden of showing that the motor vehicle was used in  
42 violation of subsection (a) of section 14-227a of the general statutes or  
43 section 53a-56b, 53a-60d or 53a-213 of the general statutes and that  
44 such owner or person claiming a lien, lease or security interest knew or  
45 reasonably should have known that such motor vehicle was being  
46 used or was intended to be used in a violation of subsection (a) of  
47 section 14-227a of the general statutes or section 53a-56b, 53a-60d or  
48 53a-213 of the general statutes, the court shall order that such motor

49 vehicle be released to such owner or person claiming a lien, lease or  
50 security interest or shall take such other action as may be necessary to  
51 protect the interest of such owner or person claiming a lien, lease or  
52 security interest.

53 (c) Upon conviction of a person under subsection (a) of section 14-  
54 227a of the general statutes or section 53a-56b, 53a-60d or 53a-213 of  
55 the general statutes, the court may render a judgment that the motor  
56 vehicle used in the commission of the offense be forfeited to the state,  
57 except that if any such motor vehicle is subject to a bona fide lien, lease  
58 or security interest, such motor vehicle shall not be so disposed of in  
59 violation of the rights of the holder of such lien, lease or security  
60 interest. Whenever any motor vehicle has been ordered forfeited to the  
61 state under this section, the court shall order that such motor vehicle  
62 be sold at public auction and the proceeds: (1) Applied to payment of  
63 the balance due on any lien, lease or security interest recognized or  
64 preserved by the court; (2) applied to payment of any costs incurred  
65 for the storage, maintenance and forfeiture of such vehicle; and (3)  
66 deposited in the General Fund and remitted to the municipality in  
67 which the arrest that resulted in conviction occurred.

68 (d) Upon final disposition other than a conviction for a violation of  
69 subsection (a) of section 14-227a of the general statutes or section 53a-  
70 56b, 53a-60d or 53a-213 of the general statutes, the court shall order the  
71 motor vehicle returned to its owner.

72 (e) If the court concludes that a motor vehicle previously owned by  
73 the arrested person would have been subject to forfeiture under this  
74 section but for the fact that it was transferred by the arrested person  
75 prior to the judgment of forfeiture with the intention of preventing its  
76 forfeiture under this section, the court may set aside such transfer. The  
77 court may also render any other appropriate order reasonably  
78 necessary to protect the rights of any innocent party to any such  
79 transfer.

80 (f) At any time prior to or after a judgment of forfeiture under this  
81 section, the prosecuting authority may compromise or otherwise remit  
82 or mitigate in whole or in part any claim or potential claim of the state  
83 arising under this section.

84 Sec. 2. (NEW) (*Effective October 1, 2013*) No motor vehicle shall be  
85 forfeited under sections 1 to 3, inclusive, of this act to the extent of the  
86 interest of an owner, lienholder, lessor or holder of a security interest  
87 by reason of an act or omission committed by another person unless  
88 such owner, lienholder, lessor or holder of a security interest knew or  
89 reasonably should have known that such motor vehicle was being  
90 used or was intended to be used in a violation of subsection (a) of  
91 section 14-227a of the general statutes or section 53a-56b, 53a-60d or  
92 53a-213 of the general statutes. No motor vehicle that is jointly owned  
93 shall be forfeited under sections 1 to 3, inclusive, of this act unless all  
94 owners of record knew or reasonably should have known that such  
95 motor vehicle was being used or was intended to be used in a violation  
96 of subsection (a) of section 14-227a of the general statutes or section  
97 53a-56b, 53a-60d or 53a-213 of the general statutes.

98 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) Any motor vehicle seized  
99 in connection with the arrest of a person for a violation of subsection  
100 (a) of section 14-227a of the general statutes or section 53a-56b, 53a-60d  
101 or 53a-213 of the general statutes shall be released to the owner thereof  
102 or the owner's agent, permittee or lessee upon the substitution of cash  
103 or a bond with surety or a lien on any other property of the owner or  
104 the owner's agent, permittee or lessee which has a net equity value  
105 equal to or greater than the fair market value of the motor vehicle.

106 (b) If a motor vehicle seized in connection with the arrest of a person  
107 for a violation of subsection (a) of section 14-227a of the general  
108 statutes or section 53a-56b, 53a-60d or 53a-213 of the general statutes is  
109 released pursuant to subsection (a) of this section and such arrested  
110 person is convicted of such violation, the owner of the motor vehicle or  
111 the owner's agent, permittee or lessee shall deliver the motor vehicle in

112 substantially the same condition as when it was seized, reasonable  
 113 wear and tear excepted, not later than five days after the judgment of  
 114 forfeiture to the party designated by the court in such judgment. If the  
 115 motor vehicle is delivered as ordered, the court shall order the bond or  
 116 other security substituted pursuant to subsection (a) of this section to  
 117 be returned to the owner or the owner's agent, permittee or lessee. If  
 118 the motor vehicle is not so delivered, the court shall order such bond  
 119 or other security to be forfeited and the proceeds disposed of as  
 120 provided in subdivisions (1) to (3), inclusive, of subsection (c) of  
 121 section 1 of this act.

122 (c) If the arrested person is not convicted of a violation of  
 123 subsection (a) of section 14-227a of the general statutes or section 53a-  
 124 56b, 53a-60d or 53a-213 of the general statutes, the court shall order the  
 125 bond or other security substituted pursuant to subsection (a) of this  
 126 section to be returned to the owner or the owner's agent, permittee or  
 127 lessee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	New section

***Statement of Purpose:***

To increase the penalty for operating a motor vehicle while consuming intoxicating liquor or while under the influence of intoxicating liquor or drugs by permitting the seizure and forfeiture of a motor vehicle used to commit such offense and remitting the proceeds to the municipality in which the offense occurred.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*